



Reply to
Attention of:

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CEMP-SWD

19 DEC 2006

MEMORANDUM FOR COMMANDER, Southwestern Division (CESWD-PDT)

SUBJECT: Implementation of Section 3135(a-g) of the Water Resources Development Act of 2007 (WRDA 2007) - Ottawa County, Oklahoma.

1. Section 3135(a) through (d) authorizes to be appropriated \$30 million for relocations and buyouts in Ottawa County, Oklahoma, consistent with the relocation program in the State of Oklahoma under 27A O.S. 2006, sections 2201 et seq. Section 3135(e) through (g) directs the Administrator of the Environmental Protection Agency to consider a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for the Tar Creek, Oklahoma, National Priorities List site, to include subsidence remedies, such as permanent relocations. A copy of the legislation is enclosed for information.
2. Section 3135(a) through (d) is ambiguous with respect to the implementing agency. As a general matter, such authorizations are generally within the responsibility of EPA and not the Corps. Further, subsections (e) through (g) provide specific direction to the Administrator of EPA to take certain actions. Accordingly, it is believed that section 3135(a) through (g) is the responsibility of EPA and that no Corps action is required at this time.
3. No work is to be initiated by the Corps of Engineers under this Section for relocations, buyouts, or remediation efforts, unless funds are specifically provided by Congress for such work. Any funds provided by Congress will be utilized in accordance with current Civil Works program execution guidance.

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read "S. L. Stockton", is positioned above the typed name.

Steven L. Stockton, P.E.
Director of Civil Works

Encl

Enclosure:

SEC. 3135. OTTAWA COUNTY, OKLAHOMA.

(a) In General- There is authorized to be appropriated \$30,000,000 for the purposes set forth in subsection (b).

(b) Purposes- Notwithstanding any other provision of law, funds appropriated under subsection (a) may be used for the purpose of--

(1) the buyout of properties and permanently relocating residents and businesses in or near Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties; and

(2) providing funding to the State of Oklahoma to buyout properties and permanently relocate residents and businesses of Picher, Cardin, and Hockerville, Oklahoma, from areas determined by the State of Oklahoma to be at risk of damage caused by land subsidence and remaining properties.

(c) Limitation- The use of funds in accordance with subsection (b) shall not be considered to be part of a federally assisted program or project for purposes of Public Law 91-646 (42 U.S.C. 4601 et seq.), consistent with section 2301 of Public Law 109-234 (120 Stat. 455).

(d) Consistency With State Program- Any actions taken under subsection (b) shall be consistent with the relocation program in the State of Oklahoma under 27A O.S. Supp. 2006, sections 2201 et seq.

(e) Consideration of Remedial Action- The Administrator of the Environmental Protection Agency shall consider, without delay, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) for the Tar Creek, Oklahoma, National Priorities List site that includes permanent relocation of residents consistent with the program currently being administered by the State of Oklahoma. Such relocation shall not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(f) Estimating Costs- In estimating and comparing the cost of a remedial alternative for the Tar Creek Oklahoma, National Priorities List site that includes the permanent relocation of residents, the Administrator shall not include the cost of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(g) Effect of Certain Remedies- Inclusion of subsidence remedies, such as permanent relocation within any remedial action, shall not preempt, alter, or delay the right of any sovereign entity, including any State or tribal government, to seek remedies, including abatement, for land subsidence and subsidence risks under State law.